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BEFORE 0000121190 COMMISSION

JAMES M. IRVIN
CHAIRMAN
RENZ D. JENNINGS
COMMISSIONER
CARL J. KUNASEK
COMMISSIONER

IN THE MATTER OF COMPETITION IN THE PROVISION OF ELECTRIC SERVICES THROUGHOUT THE STATE OF ARIZONA	DOCKET NO. RE-00000-C-94-165

COMMENTS OF THE ARIZONA UTILITY INVESTORS ASSOCIATION REGARDING PROPOSED REVISIONS TO THE RETAIL ELECTRIC COMPETITION RULES

1. Introduction

The Staff has urged respondents to comment on this new version of the competition rules with explicit suggestions of wording changes and to avoid narrative repetition of our organizations' positions.

AUIA understands the Staff's desire for concise comments, but we would like to point out that: a) the proposed rules have been expanded from 19 to 43 pages; b) nearly two-thirds of the material has never appeared in the rules previously; and c) it has been available to us for only five working days.

Under the circumstances, AUIA believes it would be constructive for the staff to meet with the participants informally to discuss the proposed changes and obtain live feedback. This would be a logical outgrowth of the collaborative process initiated by Chairman Irvin at the Open Meeting June 4.

In the meantime, we will make our comments as concise as possible.

2. Specific Comments

R14-2-1604 B.

AUIA simply wants to point out for the record that the new wording in this section requires an Affected Utility to continually "churn" its customer base during the transition period until 20 % of its load is served by competitors. This is far different from the original intent of the rule and the Working Group consensus which was to make choice available to 20 % of the utility's load. Question: Will the administrative cost of this expanded conversion process be recoverable in regulated rates? _

R14-2-1609 B.2.
AUIA believes that none of the Affected Utilities will be able to achieve the solar portfolio requirement, especially in light of the rule change above which virtually assures that 20 % of the utilities' load will be served competitively in the transition period.

Furthermore, the terms of the transition completely contradict the goals of the solar portfolio. In the first two years virtually all of the competitive load will be commercial and industrial. These customers will be motivated by price alone and will be unwilling to pay above-market costs for solar.

Therefore, the solar portfolio standard simply becomes a penalty collection mechanism, all to the detriment of utility shareholders since there is no mechanism for recovering the above-market costs.

R14-2-1610 A.
In this section, "shall" should be replaced by "should" to express the Commission's intent. In fact, the allocation between native load and retail access customers during the transition is governed by FERC Order 888 and not by the ACC.

1610 G.
Here, the rules do not go far enough. The Commission should "require" the use of scheduling coordinators and should establish licensing standards and rules of behavior until a FERC-approved ISO is in place.

R14-2-1614 A. 10.
The requirements regarding fuel mix percentages and emissions characteristics in this section conflict with **R14-2-1614 C.** which asserts that the information may be confidential. They also seem redundant and are in conflict with the labeling requirements in **R14-2-1618**.

R14-2-1616 A.
AUIA believes the Commission is acting beyond its authority in forcing an Affected Utility to undertake a complete corporate reorganization. Further, Decision No. 60977 dealing with stranded cost recovery specifically provides that divesting utilities may recoup fully the cost of divestiture. But the rule makes no provision for recovering the massive costs of reorganizing, such as state and federal licensing, securities registration and issuance, contract amendments, indenture revisions and defeasance. Therefore, this provision simply becomes an illegal and unwarranted penalty levied against those utilities that choose not to divest.

1616. B.
The statement, "An Affected Utility shall not provide competitive services," is inscrutable. Does this mean that during the transition an Affected Utility will be unable to provide metering and billing services for its regulated customer base, or that it has to charge those customers for setting up a separate affiliate with separate data bases to serve them? And does the Commission think this is going to happen in 5 months?

R14-2-1617 A. 3.
The name and logo of an Affected Utility are assets belonging to the shareholders of the company. They are at the heart of the utility franchise. To prohibit the use of those assets by an affiliate which has been forcibly detached from an Affected Utility is an illegal expropriation of the property of the shareholders. The section should end with a period after "utility" in the second sentence and the rest should be struck.

1617 C. 2.
The organizational separations that give rise to the compliance plans and the yearly audits are being forced on the Affected Utilities by the Commission. They are no different from other regulatory and accounting expenses that are recovered in rates and there is absolutely no justification for requiring shareholders to pay for them. The last sentence in this section should be struck.

R14-2-1618 E.
The practical value of this entire labeling requirement defies comprehension; it represents the ultimate in micro-regulation. With regard to fuel mix and emission characteristics, it will never be accurate for any supplier in a competitive market. It will turn into an expensive consumer scam. Furthermore, how can UDCs and their ESP affiliates provide labeling without "sharing" information?

Section E in particular defies logic. If APS (the UDC) and its marketing and generating affiliates can't cohabit or commingle, why does it matter to APS customers what the affiliates are producing? Why do we care what PG&E is producing for sale in California or what Enron produces for sale in Oregon? This "disclosure" should be eliminated.

1618 F.
The need for terms of service is understandable, but when a UDC and an ESP serve the same customer, does he receive the information from both of them and does he pay for it twice? What if their rules are different?

1618 H.
This advertising requirement also makes little sense. By definition, Standard Offer is a bundled service and its marketing materials would not be "describing generation service." Furthermore, in recent history under this Commission advertising dollars used to market services are shareholder funds. If the Commission is proposing to allow recovery of advertising funds, perhaps it can set some boundaries for content. If not, it has no right to dictate how an ESP or a UDC must spend its marketing dollars.

1618 I.
A literal reading of this section is that if a company is inaccurate in complying with any of the five pages of labeling and advertising dicta, it could have its certificate revoked. So, for example, a company could be issued a show cause order if the Commission (or a competitor) asserted that a company had underestimated the NOX emissions of a particular power plant in New Mexico. So much for the brave new world of competition and deregulation.

This concludes the comments of the Arizona Utility Investors Association.

Respectfully Submitted, this 6th day of July, 1998.

Walter W. Meek, President

CERTIFICATE OF SERVICE

An original and ten copies of the foregoing
Comments filed this 6th day of July, 1998, with:

Docket Control
Arizona Corporation Commission
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Phoenix, AZ 85007

Copies of the foregoing Comments hand delivered
this 6th day of July, 1998, to:

Commissioner James M. Irvin
Commissioner Renz D. Jennings
Commissioner Carl J. Kunasek
Ray Williamson, Acting Director, Utilities Division
Arizona Corporation Commission
1200 W. Washington Street
Phoenix, AZ 85007

Copies of the foregoing Comments mailed
this 6th day of July, 1998, to:

Parties of record in the above-caption docket.

Walter W. Meek